

# SENATE JOURNAL

OF THE

## IDAHO LEGISLATURE

SECOND REGULAR SESSION  
FIFTY-NINTH LEGISLATURE

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**EIGHTY-FIRST LEGISLATIVE DAY  
THURSDAY, MARCH 27, 2008**

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 9:30 a.m.

Roll call showed all members present except Senators Cameron, Hill, and McKenzie, absent and excused.

Prayer was offered by Chaplain Goebel.

The Pledge of Allegiance was led by Patricia Gorla, Page.

The Senate advanced to the Third Order of Business.

### Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 26, 2008, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

### Reports of Standing Committees

March 27, 2008

The JUDICIARY AND RULES Committee reports that **S 1408**, as amended, has been correctly engrossed.

DARRINGTON, Chairman

**S 1408**, as amended, was filed for first reading.

March 27, 2008

The JUDICIARY AND RULES Committee reports that Senate amendments to **H 447**, as amended, **H 380**, as amended, as amended, **S 1408**, **H 606**, and **H 607** have been correctly printed.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

### Messages from the House

March 27, 2008

Mr. President:

I transmit herewith **HCR 59**, which has passed the House.

ALEXANDER, Chief Clerk

**HCR 59** was filed for first reading.

March 26, 2008

Mr. President:

I return herewith **S 1501**, **S 1503**, **S 1470**, **S 1455**, **S 1379**, as amended, as amended, **S 1460**, and **SJM 113**, which have passed the House.

ALEXANDER, Chief Clerk

**S 1501**, **S 1503**, **S 1470**, **S 1455**, **S 1379**, as amended, as amended, **S 1460**, and **SJM 113** were referred to the Judiciary and Rules Committee for enrolling.

March 26, 2008

Mr. President:

I transmit herewith Enrolled **H 566**, as amended in the Senate, **H 646**, **H 647**, **H 649**, **H 651**, **H 658**, **H 659**, **H 660**, **H 665**, **H 666**, **H 592**, **H 451**, as amended, **H 559**, **H 618**, **H 667**, **H 668**, and **H 669** for the signature of the President.

ALEXANDER, Chief Clerk

The President Pro Tempore signed Enrolled **H 566**, as amended in the Senate, **H 646**, **H 647**, **H 649**, **H 651**, **H 658**, **H 659**, **H 660**, **H 665**, **H 666**, **H 592**, **H 451**, as amended, **H 559**, **H 618**, **H 667**, **H 668**, and **H 669** and ordered them returned to the House.

March 26, 2008

Mr. President:

I return herewith Enrolled **S 1343**, **S 1438**, as amended, **S 1502**, **S 1504**, **S 1505**, **S 1511**, **SCR 137**, **SCR 138**, and **SCR 139**, which have been signed by the Speaker.

ALEXANDER, Chief Clerk

Enrolled **S 1343**, **S 1438**, as amended, **S 1502**, **S 1504**, **S 1505**, and **S 1511** were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

Enrolled **SCR 137**, **SCR 138**, and **SCR 139** were referred to the Judiciary and Rules Committee for transmittal to the Office of the Secretary of the State.

The Senate advanced to the Tenth Order of Business.

### Motions and Resolutions

Senator Hill was recorded present at this order of business.

The President Pro Tempore announced that **HCR 50**, as amended, was before the Senate for final consideration.

Moved by Senator McGee, seconded by Senator Langhorst, that **HCR 50**, as amended, be adopted. The question being, "Shall the resolution be adopted?"

Roll call resulted as follows:

AYES--Bair, Bastian, Bilyeu, Broadsword, Burkett, Coiner, Corder, Davis, Fulcher, Gannon (Gannon), Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 31.

NAYS--Andreason, Darrington. Total - 2.

Absent and excused--Cameron, McKenzie. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **HCR 50**, as amended, adopted, title was approved, and the resolution ordered returned to the House.

The President Pro Tempore announced that **HCR 57** was before the Senate for final consideration.

Moved by Senator Hammond, seconded by Senator Langhorst, that **HCR 57** be adopted. The question being, "Shall the resolution be adopted?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Coiner, Corder, Darrington, Fulcher, Gannon (Gannon), Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 32.

NAYS--None.

Absent and excused--Cameron, Davis, McKenzie. Total - 3.

Total - 35.

Whereupon the President Pro Tempore declared **HCR 57** adopted, title was approved, and the resolution ordered returned to the House.

Senator Cameron was recorded present at this order of business.

The President Pro Tempore announced that **HCR 54** was before the Senate for final consideration.

Moved by Senator Little, seconded by Senator Stennett, that **HCR 54** be adopted. The question being, "Shall the resolution be adopted?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon (Gannon), Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--McKenzie. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **HCR 54** adopted, title was approved, and the resolution ordered returned to the House.

Senator McKenzie was recorded present at this order of business.

The President Pro Tempore announced that **HCR 45** was before the Senate for final consideration.

Moved by Senator Keough, seconded by Senator Langhorst, that **HCR 45** be adopted. The question being, "Shall the resolution be adopted?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Darrington, Davis, Fulcher, Gannon (Gannon), Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Stegner, Stennett, Werk. Total - 33.

NAYS--Corder, Siddoway. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **HCR 45** adopted, title was approved, and the resolution ordered returned to the House.

The President Pro Tempore announced that **HCR 52** was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Darrington, seconded by Senator Stennett, **HCR 52** was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

The President Pro Tempore announced that **SP 102** was before the Senate for final consideration, the question being, "Shall the proclamation be adopted?"

On motion by Senator Stegner, seconded by Senator Stennett, **SP 102** was adopted by voice vote, title was approved, and the proclamation ordered filed in the office of the Secretary of the Senate.

The President Pro Tempore announced the Commerce and Human Resources Committee report relative to the Gubernatorial appointment of Judie Wright was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Bilyeu, seconded by Senator Broadsword, the Gubernatorial appointment of Judie Wright as Administrator of the Division of Human Resources was confirmed by voice vote.

The President Pro Tempore declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President Pro Tempore announced the State Affairs Committee report relative to the Gubernatorial appointments of Carla Campo and Darrell Kerby was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator McKenzie, seconded by Senator Stennett, the Gubernatorial appointment of Carla Campo as a member of the Bingo-Raffle Advisory Board was confirmed by voice vote.

On motion by Senator Jorgenson, seconded by Senator Stennett, the Gubernatorial appointment of Darrell Kerby as a member of the Idaho Energy Resources Authority was confirmed by voice vote.

The President Pro Tempore declared the report adopted and directed the Secretary of the Senate to prepare letters of the Gubernatorial appointment confirmations for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

#### **Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials**

**H 447**, as amended, as amended in the Senate, by State Affairs Committee, was read the first time at length and filed for second reading.

**H 380**, as amended, as amended, as amended in the Senate, by Business Committee, was read the first time at length and filed for second reading.

**H 606**, as amended in the Senate, by State Affairs Committee, was read the first time at length and filed for second reading.

**H 607**, as amended in the Senate, by Education Committee, was read the first time at length and filed for second reading.

**S 1408**, as amended, by Education Committee, was read the first time at length and filed for second reading.

**HCR 59**, by State Affairs Committee, was introduced, read at length, and referred to the Commerce and Human Resources Committee.

The Senate advanced to the Twelfth Order of Business.

#### **Second Reading of Bills**

**H 494**, by Business Committee, was read the second time at length and filed for third reading.

**H 620**, by State Affairs Committee, was read the second time at length and filed for third reading.

**H 483**, as amended, by Transportation and Defense Committee, was read the second time at length and filed for third reading.

**H 602**, as amended, by Ways and Means Committee, was read the second time at length and filed for third reading.

**S 1515, S 1516, S 1517, S 1518, and S 1519**, by Finance Committee, were read the second time at length and filed for third reading.

**HJR 4**, by Revenue and Taxation Committee, was read the second time at length and filed for third reading.

**H 654**, as amended, by State Affairs Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

#### **Third Reading of Bills**

On request by Senator Davis, granted by unanimous consent, **SJR 105**, having been held, retained its place on the Third Reading Calendar for one legislative day.

**H 532** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Keough arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon (Gannon), Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett. Total - 34.

NAYS--Werk. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 532** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, **S 1506** retained its place on the Third Reading Calendar for one legislative day.

#### **Suspension of Rules**

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 494** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

**H 494** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Goedde arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Pursuant to Senate Rule 39(H), Senator Goedde disclosed a possible conflict of interest under applicable law.

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon (Gannon), Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Richardson. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 494** passed, title was approved, and the bill ordered returned to the House.

#### **Suspension of Rules**

On request by Senator Stegner, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 620** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

**H 620** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Davis arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher,

Gannon (Gannon), Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 35.

Whereupon the President Pro Tempore declared **H 620** passed, title was approved, and the bill ordered returned to the House.

#### **Suspension of Rules**

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 483**, as amended, were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

**H 483**, as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hammond arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon (Gannon), Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Siddoway, Stegner, Stennett, Werk. Total - 33.

NAYS--Burkett, Schroeder. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **H 483**, as amended, passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business.

#### **Reports of Standing Committees**

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate recessed at 12:10 p.m. until the hour of 1:45 p.m. of this day.

#### **RECESS AFTERNOON SESSION**

The Senate reconvened at 1:45 p.m., pursuant to recess, President Pro Tempore presiding.

Roll call showed all members present except Senators Cameron, Hill, Kelly, Little, and Lodge, absent and excused.

Prior to recess the Senate was at the Sixth Order of Business, Reports of Standing Committees.

Senator Lodge was recorded present at this order of business.

March 27, 2008

The JUDICIARY AND RULES Committee reports that **S 1379**, as amended, as amended, **S 1455**, **S 1460**, **S 1470**, **S 1501**, **S 1503**, and **SJM 113** have been correctly enrolled.

DARRINGTON, Chairman

The President Pro Tempore signed Enrolled **S 1379**, as amended, as amended, **S 1455**, **S 1460**, **S 1470**, **S 1501**, **S 1503**, and **SJM 113**, and ordered them transmitted to the House for the signature of the Speaker.

March 27, 2008

The RESOURCES AND ENVIRONMENT Committee reports out **H 643** with the recommendation that it do pass.

SCHROEDER, Chairman

**H 643** was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

#### Messages from the House

March 27, 2008

Mr. President:

I transmit herewith **H 682**, **H 680**, **H 681**, **H 683**, **H 684**, **H 685**, and **H 687**, which have passed the House.

ALEXANDER, Chief Clerk

**H 682**, **H 680**, **H 681**, **H 683**, **H 684**, **H 685**, and **H 687** were filed for first reading.

March 27, 2008

Mr. President:

I return herewith **S 1508** and **SJM 111**, which have passed the House.

ALEXANDER, Chief Clerk

**S 1508** and **SJM 111** were referred to the Judiciary and Rules Committee for enrolling.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

#### Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

**H 682**, by Appropriations Committee, was introduced, read the first time at length, and referred to the Finance Committee.

**H 680**, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

**H 681** and **H 683**, by Appropriations Committee, were introduced, read the first time at length, and referred to the Finance Committee.

**H 684** and **H 685**, by Education Committee, were introduced, read the first time at length, and referred to the Education Committee.

**H 687**, by Appropriations Committee, was introduced, read the first time at length, and referred to the Finance Committee.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Thirteenth Order of Business.

#### Third Reading of Bills

Senators Cameron, Hill, Kelly, and Little were recorded present at this order of business.

#### Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 654**, as amended, were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

**H 654**, as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Pearce arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Corder, Darrington, Davis, Fulcher, Gannon (Gannon), Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Siddoway, Stegner, Stennett. Total - 29.

NAYS--Burkett, Coiner, Kelly, Sagness (Malepeai), Schroeder, Werk. Total - 6.

Total - 35.

Whereupon the President Pro Tempore declared **H 654**, as amended, passed, title was approved, and the bill ordered returned to the House.

#### Suspension of Rules

On request by Senator Stegner, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **S 1515** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

**S 1515** was read the third time at length and placed before the Senate for final consideration. Senator Richardson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Fulcher, Gannon (Gannon), Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 33.

NAYS--None.

Absent and excused--Davis, Kelly. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **S 1515** passed, title was approved, and the bill ordered transmitted to the House.

#### **Suspension of Rules**

On request by Senator Stegner, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **S 1516** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

**S 1516** was read the third time at length and placed before the Senate for final consideration. Senator Werk arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Fulcher, Gannon (Gannon), Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 33.

NAYS--None.

Absent and excused--Davis, Kelly. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **S 1516** passed, title was approved, and the bill ordered transmitted to the House.

#### **Suspension of Rules**

On request by Senator Stegner, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **S 1517** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

**S 1517** was read the third time at length and placed before the Senate for final consideration. Senator Werk arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Fulcher, Gannon (Gannon), Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 33.

NAYS--None.

Absent and excused--Davis, Kelly. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **S 1517** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business.

#### **Reports of Standing Committees**

March 27, 2008

The JUDICIARY AND RULES Committee reports that **S 1508** and **SJM 111** have been correctly enrolled.

DARRINGTON, Chairman

The President Pro Tempore signed Enrolled **S 1508** and **SJM 111**, and ordered them transmitted to the House for the signature of the Speaker.

March 27, 2008

The JUDICIARY AND RULES Committee reports that Enrolled **S 1343**, **S 1438**, as amended, **S 1502**, **S 1504**, **S 1505**, and **S 1511** were delivered to the Office of the Governor at 1:50 p.m., March 27, 2008.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

March 27, 2008

The JUDICIARY AND RULES Committee reports that Enrolled **SCR 137**, **SCR 138**, and **SCR 139** were delivered to the Office of the Secretary of State at 2:09 p.m., March 27, 2008.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

March 27, 2008

The COMMERCE AND HUMAN RESOURCES Committee reports out **HCR 59** with the recommendation that it do pass.

ANDREASON, Chairman

**HCR 59** was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 27, 2008

The FINANCE Committee reports out **H 681**, **H 682**, **H 683**, and **H 687** with the recommendation that they do pass.

CAMERON, Chairman

**H 681**, **H 682**, **H 683**, and **H 687** were filed for second reading.

March 27, 2008

The STATE AFFAIRS Committee reports it has had under consideration the Gubernatorial appointments listed below and the Committee recommends that said appointments be confirmed by the Senate:

J. Philip Reberger to the State Building Authority, term to expire January 1, 2012;

James C. Hammond to the State Building Authority, term to expire January 1, 2012.

McKENZIE, Chairman

The Gubernatorial appointments were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

**Messages from the Governor**

March 27, 2008

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that I have signed today and am transmitting to the Secretary of State the following Senate Bill, to wit:

**S 1398**, as amended

As Always - Idaho, "*Esto Perpetua*"  
/s/ C. L. 'Butch' Otter  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Senate advanced to the Ninth Order of Business.

**Messages from the House**

March 27, 2008

Mr. President:

I transmit herewith **H 664**, as amended, and **H 656**, as amended, which have passed the House.

ALEXANDER, Chief Clerk

**H 664**, as amended, and **H 656**, as amended, were filed for first reading.

March 27, 2008

Mr. President:

I return herewith **S 1425**, as amended in the House, and **S 1413**, as amended, as amended in the House, which have passed the House.

ALEXANDER, Chief Clerk

On request by Senator Coiner, granted by unanimous consent, **S 1425**, as amended in the House, was referred to the Tenth Order of Business, Motions and Resolutions, for consideration as to possible concurrence in the House amendments.

On request by Senator Heinrich, granted by unanimous consent, **S 1413**, as amended, as amended in the House, was referred to the Tenth Order of Business, Motions and Resolutions, for consideration as to possible concurrence in the House amendments.

March 27, 2008

Mr. President:

I return herewith **SJM 114**, which has passed the House.

ALEXANDER, Chief Clerk

**SJM 114** was referred to the Judiciary and Rules Committee for enrolling.

The Senate advanced to the Tenth Order of Business.

### Motions and Resolutions

The President Pro Tempore announced that the House amendments to **S 1425**, as amended in the House, were before the Senate for consideration as to possible concurrence, the question being, "Shall the Senate concur in the House amendments to **S 1425**, as amended in the House?"

On request by Senator Coiner, granted by unanimous consent, the Senate concurred by voice vote in the House amendments to **S 1425**, as amended in the House.

**S 1425**, as amended in the House, was referred to the Judiciary and Rules Committee for engrossing.

The President Pro Tempore announced that the House amendments to **S 1413**, as amended, as amended in the House, were before the Senate for consideration as to possible concurrence, the question being, "Shall the Senate concur in the House amendments to **S 1413**, as amended, as amended in the House?"

On request by Senator Heinrich, granted by unanimous consent, the Senate concurred by voice vote in the House amendments to **S 1413**, as amended, as amended in the House.

**S 1413**, as amended, as amended in the House, was referred to the Judiciary and Rules Committee for engrossing.

The Senate advanced to the Eleventh Order of Business.

### Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

**H 664**, as amended, and **H 656**, as amended, by Revenue and Taxation Committee, were introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

### General Calendar

The President Pro Tempore declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President Pro Tempore called the Senate to order.

### Report of the Committee of the Whole

Senator Stegner, Chairman of the Committee of the Whole, reported out **H 599**, as amended, without recommendation, amended as follows:

#### SENATE AMENDMENT TO H 599, As Amended

##### AMENDMENT TO SECTION 1

On page 3 of the engrossed bill, in line 52, following "land" insert: "and all rights and privileges thereto belonging or any way appertaining, all quarries and fossils in and under the land, and all other property which the law defines, or the courts may interpret,

declare and hold to be real property under the letter, spirit, intent and meaning of the law"; and on page 4, in lines 3 and 4, delete "all quarries and fossils in and under the land" and insert: "all quarries and fossils in and under the land".

#### AMENDMENT TO SECTION 3

On page 5, delete lines 23 through 54, delete page 6 and on page 7, delete lines 1 through 36 and insert:

"63-602KK. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PERSONAL PROPERTY. (1) On and after January 1, 2009, each taxpayer's personal property, located at a business site, which is not otherwise exempt and which is not operating property, shall be exempt to the extent of seventy-five thousand dollars (\$75,000). For the purposes of this section, a taxpayer includes two (2) or more individuals using the property in a common enterprise or a related group of two (2) or more organizations when the individuals or organizations are within a relationship described in section 267 of the Internal Revenue Code, as defined in section 63-3004, Idaho Code. A taxpayer may have more than one (1) exemption pursuant to this section if the taxpayer has more than one (1) business site and personal property used in the taxpayer's business or commerce endeavor is located at the taxpayer's business site. As used in this section "business site" means a place of business owned or leased by a single taxpayer or in the case of mobile property other than transient personal property as defined in section 63-201(26), Idaho Code, from which the business operates without regard to the number of real property parcels involved.

(2) No later than the third Monday of November of each year, the county clerk of each county shall certify to the state tax commission the amount of exemption from property taxes under subsection (1) of this section, in that county for that year. The certification shall identify the property receiving tax reductions, the value of the property, the property's location, the amount of the tax levy applicable to personal property in the location, and the tax before and after the exemption allowed in subsection (1) of this section. The certification shall be in the form prescribed by the state tax commission and shall include such additional information as the commission may require by rule as needed to implement the purpose of this section. The certification shall be reviewed and if necessary, corrected by the state tax commission.

(3) (a) Subject to the limitations of this section, the state tax commission shall reimburse from the amount appropriated for personal property tax replacement in section 63-3638, Idaho Code, the county treasurer of each county for the reduction on the certification provided in subsection (2) of this section. The county treasurer shall reimburse from the amount received to each taxing district within the county an amount in proportion to the amount of reduction shown on the certification in subsection (2) of this section as corrected. The amount that would otherwise be attributable to tax revenues derived from tax levies on taxable personal property within an existing revenue allocation area as defined in section 50-2903(15), Idaho Code, on or before January 1, 2009, shall be paid directly by the county treasurer to such public body or agency entitled therein in accordance with the formula for such distribution set forth in section 50-2908, Idaho Code.

(b) The state tax commission shall pay one-half (1/2) of the reimbursement provided in this section no later than December 20 of each year, and the second one-half (1/2) shall be paid by no later than June 20 of the following year. The money received by the county tax collector under the provisions of this section may be



considered by counties and other taxing districts and budgeted against at the same time, and in the same manner, and in the same year as revenues from taxation. The total amount paid to the county treasurers shall not exceed the amount certified to the state tax commission under subsection (2) of this section.

(c) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received from distributions pursuant to section 63-3638, Idaho Code, as property tax replacement for the taxable value of property exempt from taxation pursuant to this section shall be treated as property tax revenues.

(4) Nothing contained in this section shall affect the taxation of forest lands or forest products pursuant to chapter 17, title 63, Idaho Code, or the taxation of the net profits of mines pursuant to chapter 28, title 63, Idaho Code."

#### AMENDMENT TO SECTION 4

On page 10, delete lines 45 through 56, and on page 11, delete lines 1 through 25, and insert:

"(12) Amounts calculated in accordance with subsection (3) of section 63-602KK, Idaho Code, for annual distribution to counties and other taxing districts for replacement of property tax on personal property tax exemptions pursuant to subsection (1) of section 63-602KK, Idaho Code, which amounts are continuously appropriated unless the legislature enacts a different appropriation for a particular fiscal year."

#### AMENDMENT TO SECTION 7

On page 13, delete lines 52 and 53, and insert: "63-602G, Idaho Code, and property exempt from taxation pursuant to section 63-602KK, Idaho Code,".

#### AMENDMENT TO THE BILL

On page 4, delete lines 36 through 54; and on page 5, delete lines 1 through 19; in line 20, delete "SECTION 3" and insert: "SECTION 2"; on page 7, in line 37, delete "SECTION 4" and insert: "SECTION 3"; on page 11, in line 29, delete "SECTION 5" and insert: "SECTION 4"; on page 12, in line 2, delete "SECTION 6" and insert: "SECTION 5"; on page 13, in line 45, delete "SECTION 7" and insert: "SECTION 6"; and on page 14, delete lines 34 through 43 and insert:

"SECTION 7. That Section 63-313, Idaho Code, be, and the same is hereby amended to read as follows:

63-313. SPECIAL PROVISIONS FOR TRANSIENT PERSONAL PROPERTY. (1) All transient personal property shall be listed by the owner and shall show the quantity, name, model, serial number, if any, year of manufacture, date of purchase, cost, whether new or used and other identifying information required by the county assessor. The list of transient personal property shall identify the owner of the property and shall be filed with the home county assessor on or before the first day of November of each year. The owner of transient personal property may elect to treat as his home county that county in which he maintains his residence or usual place of business or in which the transient personal property is usually kept. The report shall be made on forms prescribed by the state tax commission and shall identify periods of thirty (30) days or more during which the personal property is located in a county, specifying the location of the transient personal property for each month of the current calendar year with a projection of the location for the remaining months of November and December.

(2) The county assessor of the home county or the receiving county of the listing shall file within ten (10) days with the county assessor of all counties identified on the report a copy of the report. Each county so identified shall then place a prorated assessment on such personal property on the subsequent or missed property roll only for the length of time that the personal property was located in their county.

(3) In the event that any transient personal property has been or will be taxed for the current year in another state, the property shall be taxed for only that portion of the year that the transient personal property is kept and does remain in the state of Idaho.

(4) The provisions of this section shall not apply to transient personal property in transit through this state, or to transient personal property sold by the owner thereof in the home county upon which the taxes for the full year have been paid or secured, which said transient personal property is kept, moved, transported, shipped or hauled into and remaining in another county, and there kept or remaining either for the purpose of use or sale within the current year.

(5) For transient personal property valued at over seventy-five thousand dollars (\$75,000), any exemption in section 63-602KK, Idaho Code, available to the taxpayer shall be allocated among counties based on the prorated value provided in subsection (2) of this section.

SECTION 8. That Section 63-802, Idaho Code, be, and the same is hereby amended to read as follows:

63-802. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES -- EXCEPTIONS. (1) Except as provided in subsection (3) of this section for tax year 1995, and each year thereafter, no taxing district shall certify a budget request for an amount of property tax revenues to finance an annual budget that exceeds the greater of:

(a) The dollar amount of property taxes certified for its annual budget for any one (1) of the three (3) tax years preceding the current tax year, whichever is greater, plus the dollar amount of moneys received pursuant to section 63-3638(12), Idaho Code, for the past tax year, which amount may be increased by a growth factor of not to exceed three percent (3%) plus the amount of revenue that would have been generated by applying the levy of the previous year, not including any levy described in subsection (4) of this section, or any school district levy reduction resulting from a distribution of state funds pursuant to section 63-3638(10), Idaho Code, to any increase in market value subject to taxation resulting from new construction or change of land use classification as evidenced by the value shown on the new construction roll compiled pursuant to section 63-301A, Idaho Code; and by the value of annexation during the previous calendar year, as certified by the state tax commission for market values of operating property of public utilities and by the county assessor; or

(b) The dollar amount of property taxes certified for its annual budget during the last year in which a levy was made; or

(c) The dollar amount of the actual budget request, if the taxing district is newly created except as may be provided in subsection (1)(h) of this section; or

(d) In the case of school districts, the restriction imposed in section 33-802, Idaho Code; or

(e) In the case of a nonschool district for which less than the maximum allowable increase in the dollar amount of property taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the foregone

increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally foregone. Said additional amount shall be included in future calculations for increases as allowed; or

(f) In the case of cities, if the immediately preceding year's levy subject to the limitation provided by this section, is less than 0.004, the city may increase its budget by an amount not to exceed the difference between 0.004 and actual prior year's levy multiplied by the prior year's market value for assessment purposes. The additional amount must be approved by sixty percent (60%) of the voters voting on the question at an election called for that purpose and held on the date in May or November provided by law, and may be included in the annual budget of the city for purposes of this section; or

(g) A taxing district may submit to the electors within the district the question of whether the budget from property tax revenues may be increased beyond the amount authorized in this section, but not beyond the levy authorized by statute. The additional amount must be approved by sixty-six and two-thirds percent (66 2/3%) or more of the voters voting on the question at an election called for that purpose and held on the May or November dates provided by section 34-106, Idaho Code. If approved by the required minimum sixty-six and two-thirds percent (66 2/3%) of the voters voting at the election, the new budget amount shall be the base budget for the purposes of this section; or

(h) When a nonschool district consolidates with another nonschool district or dissolves and a new district performing similar governmental functions as the dissolved district forms with the same boundaries within three (3) years, the maximum amount of a budget of the district from property tax revenues shall not be greater than the sum of the amounts that would have been authorized by this section for the district itself or for the districts that were consolidated or dissolved and incorporated into a new district; or

(i) In the instance or case of cooperative service agencies, the restrictions imposed in sections 33-315 through 33-318, Idaho Code.

(2) In the case of fire districts, during the year immediately following the election of a public utility or public utilities to consent to be provided fire protection pursuant to section 31-1425, Idaho Code, the maximum amount of property tax revenues permitted in subsection (1) of this section may be increased by an amount equal to the current year's taxable value of the consenting public utility or public utilities multiplied by that portion of the prior year's levy subject to the limitation provided by subsection (1) of this section.

(3) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for annual budget purposes which exceeds the limitation imposed in subsection (1) of this section, unless authority to exceed such limitation has been approved by a majority of the taxing district's electors voting on the question at an election called for that purpose and held pursuant to section 34-106, Idaho Code, provided however, that such voter approval shall be for a period of not to exceed two (2) years.

(4) The amount of property tax revenues to finance an annual budget does not include revenues from nonproperty tax sources, and does not include revenue from levies that are voter approved for bonds, override levies or supplemental levies, plant facilities reserve fund levies, school emergency fund levies or for levies applicable to newly annexed property or for levies applicable to

new construction as evidenced by the value of property subject to the occupancy tax pursuant to section 63-317, Idaho Code, for the preceding tax year.

SECTION 9. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 10. This act shall be in full force and effect on and after January 1, 2009."

#### CORRECTIONS TO TITLE

On page 1, delete lines 3 through 11, and insert: "CODE, TO REVISE DEFINITIONS; AMENDING CHAPTER 6, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-602KK, IDAHO CODE, TO PROVIDE A PARTIAL EXEMPTION FROM TAXATION OF PERSONAL PROPERTY, TO PROVIDE TAXES THAT ARE NOT AFFECTED BY PERSONAL PROPERTY EXEMPTIONS, TO PROVIDE FOR REIMBURSEMENT TO LOCAL GOVERNMENTS OF PERSONAL PROPERTY TAX AND TO PROVIDE PROCEDURES; AMEND-"; delete lines 17 and 18, and insert: "POSES"; AMENDING SECTION 63-313, IDAHO CODE, TO PROVIDE THAT FOR TRANSIENT PERSONAL PROPERTY VALUED AT OVER SEVENTY-FIVE THOUSAND DOLLARS, ANY EXEMPTION TO THE TAXPAYER SHALL BE ALLOCATED AMONG COUNTIES BASED ON THE PRORATED VALUE; AMENDING SECTION 63-802, IDAHO CODE, TO PROVIDE THE EFFECT OF CERTAIN SALES TAX DOLLARS ON THE BUDGET BASE; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE."

The Committee also has **S 1329** and **S 1404**, as amended, under consideration, reports progress, and begs leave to sit again.

STEGNER, Chairman

On motion by Senator Stegner, seconded by Senator Langhorst, the report was adopted by voice vote.

**H 599**, as amended, as amended in the Senate, was filed for first reading as amended, and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business.

#### Reports of Standing Committees

March 27, 2008

The JUDICIARY AND RULES Committee reports that Senate amendments to **H 599**, as amended, as amended in the Senate, have been correctly printed.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading and Reference of Bills,  
House Petitions, Resolutions, and Memorials**

**H 599**, as amended, as amended in the Senate, by Revenue and Taxation Committee, was read the first time at length and filed for second reading.

The Senate advanced to the Twelfth Order of Business.

**Second Reading of Bills**

**Suspension of Rules**

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 599**, as amended, as amended in the Senate, were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

**H 599**, as amended, as amended in the Senate, was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Hill arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon (Gannon), Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 35.

Whereupon the President Pro Tempore declared **H 599**, as amended, as amended in the Senate, passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

**Miscellaneous Business**

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 6:25 p.m. until the hour of 9:30 a.m., Friday, March 28, 2008.

ROBERT L. GEDDES, President Pro Tempore

Attest: JEANNINE WOOD, Secretary